

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4461 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AODHAPRASAD K SHRAMA

Versus

COMMISSIONER OF LABOUR

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Appearance:

MR HK RATHOD for Petitioner

MR SHASTRI appearing for Mr. DA BAMBHANIA for  
Respondent No. 1

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CORAM : R.K.ABICHANDANI, J

Date of decision: 21/08/96

ORAL JUDGEMENT

Rule. Mr. Shastri for Mr. D.A. Bambhanian, Solicitor to the Government waives service of rule on behalf of the respondents. At the request of both the sides the matter is taken up for final disposal.

The grievance of the petitioner is that instead of making a Reference under Section 10 of the Industrial Disputes Act, the Assistant Labour Commissioner has virtually adjudicated the dispute by saying that there is no ground for making a Reference since the dispute

regarding promotion claimed by the petitioner falls within the purview of the administrative domain of the employer. On an identical issue Hon'ble Mr. Justice K.R. Vyas by his decision dated 10.4.1995 in Special Civil Application No. 2375 of 1995 had set aside a similar order by which Reference was refused on the ground that the dispute regarding promotion fell within the administrative domain of the employer. It was held that as per the settled legal position it was not open for the appropriate government while deciding the question of making reference to decide the dispute on merits. I am in respectful agreement with the ratio of the said decision and hold that the Assistant Labour Commissioner has exceeded his jurisdiction in virtually adjudicating upon the dispute. The impugned order at Annexure-B is therefore set aside and the respondent No. 2 is directed to consider the matter afresh in order to decide whether a Reference should be made or not in accordance with law, expeditiously within two months from the date of the receipt of the writ of this order. Rule is made absolute accordingly with no order as to costs.

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